

Memorandum

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff Investment  
Securities LLC,

Plaintiff,

v.

UBS AG, *et al.*,

Defendants.

SIPA Liquidation

United States Bankruptcy Court  
Clerk's Adv. Pro. No. 08-1789 (BRL)

(Substantively Consolidated)

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11 Civ. 4213 (CM)

ECF Case

**STIPULATION AND ORDER**

WHEREAS, Plaintiff Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC ("Plaintiff"), commenced this action, filed under Adversary Proceeding No. 10-5311 (BRL), by filing a Complaint in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") on December 7, 2010; and

WHEREAS, on June 17, 2011, Defendants UBS AG, UBS (Luxembourg) SA, UBS Fund Services (Luxembourg) SA, and UBS Third Party Management Company SA (collectively, the "UBS Defendants") moved this Court to withdraw the reference of this action to the Bankruptcy Court; and

WHEREAS, on July 11, 2011, the Plaintiff agreed to stipulate with defendants to withdraw the reference to the Bankruptcy Court in the action captioned *Picard v. UBS AG, et al.*, No. 11 Civ. 4212 (CM) (the "Luxalpha Action"); and

WHEREAS, on July 11, 2011, Plaintiff filed in the Bankruptcy Court a Notice of Voluntary Dismissal of Common Law Claims, dismissing Counts Twenty-One through Twenty-Six of his Complaint; and

WHEREAS, by order entered on July 19, 2011, this Court deemed the Notice of Voluntary Dismissal of Common Law Claims to be an amendment of the Complaint, pursuant to Fed. R. Civ. P. 15; and

WHEREAS, by order entered on July 27, 2011, this Court withdrew the reference of Plaintiff's remaining claims against the UBS Defendants in this action; and

WHEREAS, by Decision and Order entered on November 1, 2011 (the "November 1<sup>st</sup> Order"), this Court granted the Motions to Dismiss as to Counts Twelve through Twenty-Eight of the amended complaint in the Luxalpha Action; and

WHEREAS, in the November 1<sup>st</sup> Order, the Court directed that the remaining causes of action set forth in the Amended Complaint in the Luxalpha Action be returned to the Bankruptcy Court; and

WHEREAS, all that remains before this Court in this action is Counts Two and Eleven against the UBS Defendants;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for Plaintiff and counsel for the UBS Defendants, that:

1. The remaining claims against the UBS Defendants in this action are returned to the Bankruptcy Court for further proceedings.

Dated: New York, New York  
March 9, 2012

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*Attorneys for Defendants UBS AG, UBS  
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(Luxembourg) SA, and UBS Third Party  
Management Company SA*

SO ORDERED:

[Signature]  
United States District Judge

3-12-2012